

DIVISION I

ARKANSAS COURT OF APPEALS  
NOT DESIGNATED FOR PUBLICATION  
JOSEPHINE LINKER HART, Judge

CACR05-154

June 21, 2006

PAUL CRISWELL

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

APPEAL FROM THE FAULKNER  
COUNTY CIRCUIT COURT  
[NO. CR03-2589]

HON. CHARLES EDWARD CLAWSON,  
JR., CIRCUIT JUDGE

REVERSED AND REMANDED

Paul Criswell once again appeals from an order of the Faulkner County Circuit Court denying his motion to reinstate his appeal from district court to circuit court. On February 1, 2006, in an unpublished opinion, we ordered rebriefing because the abstract and addendum in Criswell's brief failed to conform with the Rules of the Arkansas Supreme Court and Court of Appeals. Criswell has now submitted a conforming brief, and on appeal, he argues that the circuit court erred in dismissing his motion to reinstate his appeal. The State has conceded error, and we agree. Therefore, we reverse and remand Criswell's case.

On November 13, 2003, the District Court of Faulkner County found Criswell guilty of two misdemeanors, possession of a controlled substance and possession of an instrument of a crime. On December 15, 2003, Criswell timely lodged his appeal in Faulkner County Circuit Court. Criswell failed to attend a pretrial hearing set on March 19, 2004, and the trial court granted the State's motion to remand the case back to district court. On November 18, 2004, Criswell moved to reinstate his appeal to circuit court,

arguing that he never received notice of the pretrial hearing. The circuit court denied his motion on December 14, 2004, and Criswell filed a timely notice of appeal from that order.

Citing *Ayala v. State*, \_\_\_ Ark. App. \_\_\_, \_\_\_ S.W.3d \_\_\_ (Sept. 28, 2005), Criswell argues that the circuit court erred in dismissing his appeal because it impinges on his right to a jury trial as guaranteed by the Arkansas Constitution. The State concedes that Criswell's case is squarely resolved by the supreme court's opinion affirming the court of appeals in its review of *Ayala v. State*, \_\_\_ Ark. \_\_\_, \_\_\_ S.W.3d \_\_\_ (Feb. 2, 2006), and we agree. We therefore reverse and remand for further proceedings consistent with this opinion.

Reversed and remanded.

PITTMAN, C.J., and GRIFFEN, J., agree.